

REMARKS

- Claims **1 – 5, 12 – 27, 29, 31 – 35, 38 – 42 and 53 – 56** are currently pending.
- Of these claims, only claims **1, 12, 26, 31, 34, 38 - 42 and 53** are independent.
- All pending claims stand rejected under 35 U.S.C. 103(a).

Claims **1 – 5, 12 – 27, 29, 31 – 35, 38 – 42 and 53 – 56** stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,873,069 to Reuhl et al. (“Reuhl” herein) in view of U.S. Patent No. 5,642,279 to Bloomberg et al. (“Bloomberg” herein). Applicants respectfully traverse this rejection at least because the combination does not teach or suggest all claim limitations and no proper motivation for combining the references has been provided.

Neither Reuhl nor Bloomberg, alone or in combination, teaches or suggests the following claim limitation, which is generally recited in each of the pending independent claims:

- *determining a final price for a product after the product is conveyed to a customer and before the customer provides any payment for the product.*

In other words, the claims are directed to embodiments where a product is conveyed to a customer before the customer provides payment for the product and before a final price is determined for the product. Neither Reuhl nor Bloomberg, alone or in combination, teach or suggest such a feature.

Reuhl describes a financing plan that allows a customer to obtain a product before providing any payment therefore (the financing plan may allow the customer to pay 0% down and make no payments or interest until a specified date). Col. 14, lines 24 – 31. However, the final price for the product is determined at the point-of-sale before the product is conveyed to the customer. Col. 4, lines 51 – 56; Col. 10, line 54 – Col. 11, line 24; Col. 14, lines 36 – 51. The customer may merely put off paying the final price, not the determination of the final price. Bloomberg describes that, *after a customer provides payment* for, and takes possession of, a product, the customer may be provided with a rebate (i.e., some portion of the payment provided by the customer is returned to the customer). Col. 2, lines 28 – 31. A rebate is a return of a portion of a payment provided. A rebate feature thus inherently requires payment to be made before the rebate is provided. Thus, Reuhl describes conveying a product to a customer before a customer provides payment therefore and Bloomberg describes providing a rebate to a customer after the customer provides payment therefore. Adding the rebate feature of Bloomberg to Reuhl would thus result, at most, in a system wherein a customer obtains a product before providing payment therefore, the customer provides the payment at the end of a period of time defined by a financing plan, and the customer receiving a rebate after providing the payment. The combination of Bloomberg and Reuhl would thus not teach one of ordinary skill in the art of determining a final price for a product after the product is conveyed to the customer and before the customer provides any payment for the product.

Further, the motivation for combining Bloomberg with Reuhl is insufficient to meet the requirement of establishing a *prima facie* burden of obviousness. The statement that one of ordinary skill in the art would have been motivated to make

the combination “in order to increase sales” (Current Office Action, page 3) is a mere conclusory statement of a desirable result that may occur from the combination, and is unsupported by the required fact finding, as discussed in detail in the Response to the Previous Office Action. Further, the motivation fails because it would not lead one of ordinary skill in the art to meet the stated goal of “increase[ing] sales” by adding the particular rebate teaching of Bloomberg to Reuhl. Appellants respectfully submit that the Examiner’s proposed modification of Reuhl in light of Bloomberg uses impermissible hindsight reconstruction absent some real and specific teaching, suggestion, or motivation for the modifications. Further, irrespective of the lack of motivation to combine, the combination of references still does not teach or suggest all of the limitations of the pending claims, as discussed above.

Applicants respectfully submit that, although the limitations of the various dependent claims have not been addressed by the Examiner, each of the pending dependent claims is patentable at least for the same reasons as the independent claims, as discussed above. Further, various dependent claims recite separately patentable limitations.

In one example of such a separately patentable feature, claims **3, 17, and 56** (and claims dependent therefrom) recite that the first override price is received from a customer. Neither Reuhl nor Bloomberg teaches such a feature. In both Reuhl and Bloomberg any competitor’s prices that are received and may cause a price change (in Reuhl) or rebate (in Bloomberg) are determined by the system and are not received from the customer.

In another example of a separately patentable feature, claim **21** recites that a competitor is contacted to verify the first override price. Neither Reuhl nor Bloomberg teach or suggest contacting a competitor. Rather, both references merely describe monitoring a competitor's advertisements.

In yet another example of a separately patentable feature, claim **54** recites that determining and charging a final price for a product are performed by a credit card issuer. Neither Reuhl nor Bloomberg teach or suggest such a feature. Rather, both references describe a retailer at which a product was purchased as performing all determinations of prices (in Reuhl) or rebates (in Bloomberg) and all charging of prices.

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Magdalena M. Fincham at telephone number (203) 461 - 7041 or via electronic mail at mfincham@walkerdigital.com.